

THE LAW OFFICE OF

ELISA HYMAN, P.C.

February 18, 2021

BY ECF

Hon. John G. Koeltl
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: M.R. et al., v. New York City Department of Education, et al.,
1:20-cv-09631 (JGK)(KNF)

Dear Judge Koeltl:

I represent the Plaintiffs in the above-referenced action. I am writing to respectfully request a stay of this action while the underlying administrative proceedings relevant to this action continue. If the Court declines a stay, Plaintiffs respectfully request a thirty-day adjournment of the initial conference currently scheduled for tomorrow, February 19, 2021, and a corresponding extension of time to file the Rule 26(f) report, which we also believe is due tomorrow.¹ Defendants consent to both of Plaintiffs' requests – for a stay of this action or for adjournment and extension.

As previously reported, this case raises a number of individual and systemic claims under the Individuals with Disabilities Education Improvement Act ("IDEA"), 20 U.S.C. § 1400, *et seq.*, the Due Process Clause of the 14th Amendment of the U.S. Constitution, 42 U.S.C. § 1983, Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 ("Section 504"), the New York State Constitution, and New York State Education Law. Plaintiff M.R. is the parent of Q.T., a young woman who Plaintiffs allege has been diagnosed with a number of psychological/psychiatric conditions, a learning disability and severe asthma. Among other things, Plaintiffs allege that Defendants failed to provide stay-put services under 20 U.S.C. § 1415(j) and that Q.T. has been out of school and without any services for several months.

Currently, there is an underlying administrative appeal pending concerning one of the school years at issue in this action. Plaintiffs anticipate a decision should be rendered within the next thirty days. Plaintiffs will likely seek to amend their complaint to add claims concerning the administrative appeal. In light of the impending decision which will affect this federal action,

¹ We apologize for the late timing of this submission. Counsel for Defendants, Copatrick Thomas, emailed the Court on February 17, 2021 regarding this matter but did not receive a response. Upon following up with the Court by telephone this morning, Mr. Thomas was advised to file a letter. The parties were originally seeking clarification as to whether the Rule 26(f) and the initial conference were due/occurring on the same day.

Plaintiffs are respectfully requesting a stay of these proceedings. Plaintiffs propose submitting a status report every thirty days, beginning with March 19, 2021.

In addition, Plaintiffs may need to seek injunctive relief in order to provide the student with immediate educational services but would like additional time to try to resolve these issues. While Defendant New York City Department of Education (“DOE”) and Plaintiffs were working toward an out-of-state residential placement for Q.T., which would partially resolve issues, Q.T. has not been accepted at any educational program at this time. Settlement, as well as the course of this federal action, is dependent upon Q.T.’s educational placement, which continues to evolve.²

For all these reasons, Plaintiffs are requesting a stay of this federal action, with submission of status reports every thirty days, beginning with March 19, 2021. In the alternative, Plaintiffs request a 30-day adjournment of the initial conference and an extension of time to submit the Rule 26(f) report – until March 19, 2021. Defendants consent to these requests, and the parties are hopeful that we will be in a better position to chart a course for this action at that time.

Thank you for Your Honor’s consideration of these requests.

Respectfully Submitted,

Erin O'Connor

Erin O’Connor, Of Counsel
The Law Office of Elisa Hyman, P.C.
Counsel for the Plaintiffs

cc: Copatrick Thomas, Esq.
Assistant Corporation Counsel

Application granted. Case stayed. The parties should provide a status report every 30 days.

	<u>/s/ John G. Koeltl</u>
New York, New York	John G. Koeltl
February 18, 2021	U.S.D.J.

² The parties regularly litigate these cases together and the overwhelming majority of the matters settle. Thus, with the additional time, we are reasonably optimistic that we can settle the case or at least narrow the issues in this action.